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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,522	08/29/2001	Wolf-Dietrich Bebenroth	GK-EIS-1044 / 500593.2003	9625
2618	7590	11/17/2003	EXAMINER	
HENDRICUS G. LOOS 3019 CRESTA WAY LAGUNA BEACH, CA 92651			FAULK, DEVONA E	
			ART UNIT	PAPER NUMBER
			2644	6
DATE MAILED: 11/17/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/942,522	BEBENROTH, WOLF-DIETRICH
	Examiner Devona E. Faulk	Art Unit 2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 August 2001.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 August 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. 09942522.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Neuman et al. (U. S. Patent 5,642,426).

Regarding claim 1, Neuman discloses an integral radio and infrared assistive listening device comprising a base housing (11) constructed and arranged to support a decoder means (102), a FM radio receiver (14), replaceable power source (13), and a volume control (12) enclosed in the housing (See Figure 1). The user would have to touch it to activate it and so this reads on “comprising that the housing has a cover which is in the form of an actuation element of the circuit. It is inherent that a circuit is present. It is interpreted, for this and all subsequent claims, that Neuman’s housing and the cover are the same. Therefore Neuman anticipates all elements of claim 1.

Claim 2 claims the circuit housing of claim 1 wherein said cover is rotatable in the form of a rotary regulator, for regulation of the volume, about an axis member mounted in the housing. As stated above apropos of claim 1 Neuman anticipates all elements of that claim. Therefore, Neuman anticipates all elements of claim 2 with the exception of the cover being rotatable in the form of a rotary regulator, for regulation of the volume, about an axis member mounted in the housing. As stated above apropos of claim 1, Neuman teaches of a volume

control but he does not indicated whether it is rotatable about an axis or not. However, volume controls that are rotatable on headsets are well known in the art and thus it is interpreted that the volume control is in the form of a rotary regulator, rotatable about an axis member mounted in the housing. Therefore, Neuman anticipates all elements of claim 2.

Claim 7 claims the circuit housing of claim 1 wherein said cover is transmissive for infrared rays. As stated above apropos of claim 1 Neuman anticipates all elements of that claim. Therefore, Neuman anticipates all elements of claim 2 with the exception of the cover being transmissive for infrared rays. Neuman further teaches the front wall (17; Figure 1) is apertured in front of a position occupied by either the infrared or FM radio receiver (14) so as to enable the latter to be exposed to a source of radiant energy. Therefore, Neuman anticipates all elements of claim 7.

Claim 8 claims the circuit housing of claim 1, wherein provided on the outside of the housing is at least one further actuating element of the circuit. As stated above apropos of claim 1, Neuman anticipates all elements of that claim. Therefore, Neuman anticipates all elements of claim 8 with the exception of at least one further actuating element of the circuit provided on the outside of the housing. Neuman further teaches of a selector switch (10, Figure 5) and an on/off switch (20, Figure 5), and of an IR receiver (8, Figure 5), which inherently would be disposed on the outside of the housing. Therefore, Neuman anticipates all elements of claim 8.

Claim 9 claims the circuit housing of claim 8, wherein said further actuating element is a button. As stated above apropos of claim 8, Neuman anticipates all elements of that claim. Therefore, Neuman anticipates all elements of claim 9 with the exception of the actuating

element being a button. Neuman's Figure 5 indicates that both the selector switch (10) and the on/off switch are buttons. Therefore, Neuman anticipates all elements of claim 9.

Claim 10 claims the circuit housing of claim 8 wherein said actuating element is arranged in a recess at the outside of the housing. As stated above apropos of claim 8, Neuman anticipates all elements of that claim. Therefore, Neuman anticipates all elements of claim 10 with the exception that the actuating element is arranged in a recess at the outside of the housing. It is inherent that the additional actuating elements have to be arranged in a recess at the outside of the housing. Therefore, Neuman anticipates all elements of claim 10.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3,5,6, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neuman et al. (U. S. Patent 5,642,426).

Claim 3 claims the circuit housing of claim 1 wherein said cover has a scale, which cooperates with a marking on the housing. As stated above apropos of claim 1 Neuman meets all elements of claim 3. Therefore, Neuman meets all elements of claim 3 with the exception of the cover having a scale, which cooperates with a marking on the housing. Neuman discloses a volume control and it is well known in the art that volume control features of a headset has an

associated scale so that the user can determine which direction will turn the volume up and which direction will turn the volume down. Therefore, it is obvious that some sort of scale associated with the volume control. Since Neuman's housing is functioning as the cover, it is obvious that the cover will have a scale that cooperates with a marking on the housing. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use Neuman's volume control, with an associated scale, for the benefit of giving the user the option of turning the volume up or down.

Claim 5 claims the circuit housing of claim 1 wherein said housing is circular-cylindrical. As stated above apropos of claim 1 Neuman meets all elements of claim 1. Therefore, Neuman meets all elements of claim 5 with the exception of the housing having a circular-cylindrical shape. The shape of Neuman's housing is showed in Figure 5. Although it is not exactly circular-cylindrical, it is obvious that the housing shape can be whatever or however one desires it to be. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention make the housing circular-cylindrical for the benefit of having a better looking housing.

Claim 6 claims the circuit housing of claim 1 wherein said cover is circular. As stated above apropos of claim 1 Neuman meets all elements of claim 1. Therefore, Neuman meets all elements of claim 5 with the exception of the cover having a circular shape. It would have been obvious to one or ordinary skill in the art at the time of the invention to make the cover the same shape as the housing for the benefit of having the cover fit the over the circuit nicely.

Claim 11 claims the circuit housing of claim 8 wherein said further actuating element is arranged at the rear side of the housing, which is in opposite relationship to the cover. As stated

above apropos of claim 8, Neuman meets all elements of claim 11. Therefore, Neuman meets all elements of claim 5 with the exception of the further actuating element being arranged at the rear side of the housing which is in opposite relationship to the cover. It is obvious that all of the actuating elements would not be on the front cover, just for the sake of the headset having a nice look and not looking crowded on the front side. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to place at least one other actuating element on the rear side of the housing for the benefit of having a better looking headset.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neuman et al. (U.S. Patent 5,642,426) in view of Taylor (RE. 34,236).

Claim 4 claims the circuit housing of claim 1 wherein said cover is connected to a potentiometer of the circuit by a slipping clutch. As stated above apropos of claim 1, Neuman meets all elements of that claim. Therefore, Neuman meets all elements of claim 4 with the exception of the cover being connected to a potentiometer of the circuit by a slipping clutch. Taylor discloses a pneumatic headphone comprising a voltage adjustment potentiometer (50). It is obvious that there is something that enables the volume to be adjusted in Neuman's headset. It is equally obvious that element would have to be connected to the cover because Neuman's volume control is on the cover. A clutch is defined as a device for gripping or holding. It is obvious there would have to be a device to hold the element that allows the volume to be adjusted to the cover. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use Taylor's voltage adjustment potentiometer, connected to the cover for the benefit of enabling the user to adjust the volume, as he or she would like.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 703-305-4359. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

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**MINSUN OH HARVEY  
PRIMARY EXAMINER**